

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF MESQUITE BY DELETING SECTIONS 7-1, 7-2 AND 7-3 OF ARTICLE I IN THEIR ENTIRETY AND ADDING NEW SECTIONS 7-1, 7-2 AND 7-3 OF ARTICLE I THEREBY ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2009 EDITION, AND PROVIDING CERTAIN ADDITIONS AND DELETIONS THERETO; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1: That Chapter 7 of the Code of the City of Mesquite, Texas, is hereby amended by deleting Sections 7-1, 7-2 and 7-3 of Article I in their entirety and adding new Sections 7-1, 7-2 and 7-3 of Article I to read as follows, in all other respects said Code, Chapter and Article to remain in full force and effect:

ARTICLE I. PROPERTY MAINTENANCE CODE

DIVISION 1. GENERALLY

Sec. 7-1. Adopted.

The *International Property Maintenance Code*, 2009 Edition, a publication of the International Code Council (I.C.C.), is hereby adopted and designated as the official property maintenance code of the City of Mesquite to the same extent as if such Code were copied verbatim in this Article subject to the amendments prescribed in this Article. The Code shall be applicable to all existing residential and nonresidential structures and all existing premises and constitutes minimum requirements and standards for premises, structures, equipment and facilities for safe and sanitary maintenance. A copy of the *International Property Maintenance Code*, 2009 Edition, and the amendments thereto shall be maintained in the office of the City Secretary as an original document and ordinance of the City.

Sec. 7-2. General terms.

The following terms shall be applicable in the *International Property Maintenance Code* adopted in Section 7-1:

Housing advisory and board of appeal. All references to housing advisory and board of appeal used in the *International Property Maintenance Code* shall mean the Building Standards Board established in Section 5-25 of the City Code.

Sec. 7-3. Amendments to the International Property Maintenance Code, 2009 Edition.

The following amendments are made to the *International Property Maintenance Code*, 2009 Edition:

(1) *Chapter 1, Scope and Administration.*

- (a) *Section 102.3.* Amend by deleting the section in its entirety and adding a new Section 102.3 to read as follows:

Application of other codes. Repairs, additions or alterations to a structure or changes of occupancy shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Plumbing Code*, *International Mechanical Code*, *International Fuel Gas Code*, the *National Electrical Code* and *International Residential Code*.

- (b) *Section 103.4.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence to Section 103.4 to read as follows:

Liability. The Code Official, member of the Building Standards Board or employee charged with the enforcement of this Code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this Code or other law or pertinent ordinance, shall not thereby be rendered liable personally, and is hereby relieved of all personal liability for any damage accruing to persons or property as a result of an act omission in the discharge of official duties.

- (c) *Section 103.5.* Amend by deleting Section 103.5 in its entirety.

- (d) *Section 107.1.* Amend by deleting the last sentence in Section 107.1 in its entirety.

- (e) *Section 107.2.* Amend by deleting the last two requirements in Section 107.2 in their entirety.

- (f) *Section 108.1.* Amend by deleting the section in its entirety and adding a new Section 108.1 to read as follows:

General. When a structure or equipment is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, or found to be dangerous, such structure shall be condemned pursuant to the provisions of this Code.

- (g) *Section 108.2.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence in Section 108.2 to read as follows:

Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard stating “Condemned. This structure or equipment is unsafe and its occupancy or use is prohibited by the Code Official.”

- (h) *Section 108.3.* Amend by deleting the section in its entirety and adding a new Section 108.3 to read as follows:

Notice. Whenever the Code Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Chapter 214, Subchapter A of the Texas Local Government Code.

- (i) *Section 108.4.* Amend by deleting the section in its entirety and adding a new Section 108.4 to read as follows:

Placarding. The Code Official shall post on the premises a placard bearing the words “Condemned. This structure or equipment is unsafe and its occupancy or use is prohibited by the Code Official.”

- (j) *Section 108.4.1.* Amend by deleting the section in its entirety and adding a new Section 108.4.1 to read as follows:

Placard removal. The Code Official shall remove the placard whenever the defect or defects upon which the placarding action(s) was based has been eliminated. Any person who defaces or removes a placard without the approval of the Code Official shall be subject to the penalties provided by this Code.

- (k) *Section 108.5.* Amend by deleting the section in its entirety and adding a new Section 108.5 to read as follows:

Prohibited occupancy. Any occupied structure condemned and placarded by the Code Official shall be vacated when so ordered by the Code Official. A person commits an offense if he occupies a placarded premise or operates placarded equipment, or if he suffers or permits any person to occupy a placarded premises or operate placarded equipment.

- (l) *Section 108.7.* Amend by deleting Section 108.7 in its entirety.

- (m) *Section 109.1.* Amend by deleting the section in its entirety and adding a new Section 109.1 to read as follows:

Imminent danger. When in the opinion of the Code Official there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or portion thereof has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous plumbing, mechanical, fuel gas or electrical equipment, or any of the conditions listed in Section 108, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a placard reading as follows: "Condemned. This structure or equipment is unsafe and its occupancy or use is prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

- (n) *Section 109.4.* Amend by deleting the section in its entirety and adding a new Section 109.4 to read as follows:

Emergency repairs. For the purposes of this section, the Code Official may employ the necessary labor and materials to perform the required work as expeditiously as possible.

- (o) *Section 109.6.* Amend by deleting the section in its entirety and adding a new Section 109.6 to read as follows:

Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Building Standards Board, be afforded a hearing as described in Section 111.

- (p) *Section 110.4.1.* Amend by adding a new Section 110.4.1 to read as follows:

Recovery of costs incurred by the City of Mesquite. Recovery of costs incurred by the City in vacating, securing, removing or demolishing a building pursuant to this Code shall be in accordance with the provisions of Chapter 214, Subchapter A of the Texas Local Government Code.

- (q) *Section 111.1.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence to Section 111.1 to read as follows:

Application for appeal. Any person directly affected by a decision of the Code Official or a notice or order issued under this Code shall have the right to appeal to the Building Standards Board provided that a written application for appeal is filed within 30 days after the day the decision notice or order was served.

- (r) *Section 111.2.* Amend by deleting Section 111.2 and its subsections in their entirety.
- (s) *Section 111.3.* Amend by deleting Section 111.3 in its entirety.
- (t) *Section 111.4.* Amend by deleting Section 111.4 and its subsection in their entirety.
- (u) *Section 111.5.* Amend by deleting Section 111.5 in its entirety.
- (v) *Section 111.6.* Amend by deleting Section 111.6 and its subsections in their entirety.
- (w) *Section 111.7.* Amend by deleting the section in its entirety and adding a new Section 111.7 to read as follows:

Court review. Once the decision of the Board becomes final under this section, the person affected by an order may only appeal the decision to the State district court. Appeal to the district court must be filed within 30 days from the date that notice of final board findings is personally delivered or mailed to the affected person(s) by first class mail certified, return receipt requested. Appeal in the district court shall be limited to a hearing under the substantial evidence rule.

- (x) *Section 112.4.* Amend by deleting the section in its entirety and adding a new Section 112.4 to read as follows:

Failure to comply. A person commits an offense if he continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition.

(2) *Chapter 3, General Requirements.*

- (a) *Section 302.4.* Amend by deleting the first sentence of the section in its entirety and adding a new first sentence to Section 302.4 to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches.

- (b) *Section 303.1.1.* Amend by adding a new Section 303.1.1 to read as follows:

Swimming pool, definition. A swimming pool, for the purpose of this article shall be any pool, hot tub or spa containing or normally capable of containing water to a depth of one and one-half feet or more. No such swimming pool shall be constructed or operated unless it complies with the conditions and requirements of this article.

- (c) *Section 303.2.* Amend by deleting the section in its entirety and adding a new Section 303.2 to read as follows:

Enclosures:

- (a) Every person in possession of land where a swimming pool, spa or hot tub exists shall be maintained at all times.
- (b) A swimming pool, spa or hot tub must be located behind a fence, wall or other structure designed to prevent small children from inadvertently wandering into the swimming pool.
- (c) The required fencing or other structure shall be measured not less than five feet in height except a fence for an above ground pool that is 42 inches or less in depth may be constructed at a minimum height of four feet. No openings in the required fence, wall or structure, other than openings in which a door or gate is located, may exceed four inches measured in horizontal direction, or three inches as measured between the bottom of the fence, wall or structure and the ground or supporting surface abutting the ground.
- (d) All doors or gates opening into a swimming pool enclosure shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping such doors and gates securely closed at all times when not being used for entry to or exit from the swimming pool enclosure. The required self-latching device shall be attached to the upper quarter of any such door or gate. The requirements for self-closing and self-latching devices shall not apply to the door of a dwelling that forms part of the swimming pool enclosure if the door is transparent.
- (e) It shall be unlawful to maintain any swimming pool in the corporate limits of the City that is not fenced in accordance with the requirements of this Code.

- (d) *Section 304.1.1.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence to Section 304.1.1 to read as follows:

Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Residential Code*.

- (e) *Section 304.14.* Amend by deleting the section in its entirety and adding a new Section 304.14 to read as follows:

Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

- (f) *Section 305.1.1.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence to Section 305.1.1 to read as follows:

Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Residential Code*.

(3) *Chapter 4, Light, Ventilation and Occupancy Limitations.*

- (a) *Section 401.3.* Amend by deleting the section in its entirety and adding a new Section 401.3 to read as follows:

Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *International Building Code* or the *International Residential Code* shall be permitted.

- (b) *Section 404.5.* Amend by deleting the section in its entirety and adding a new Section 404.5 to read as follows:

Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5
 MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living Room	No requirements	120	150
Dining Room	No requirements	80	100
Bedrooms	Shall comply with Section 404.4		

(4) *Chapter 5, Plumbing Facilities and Fixture Requirements.*

- (a) *Section 505.1.* Amend by deleting the section in its entirety and adding a new Section 505.1 to read as follows:

General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water, in accordance with the *International Plumbing Code* or the *International Residential Code*.

(5) *Chapter 6, Mechanical and Electrical Requirements.*

- (a) *Section 601.1.* Amend by deleting the section in its entirety and adding a new Section 601.1 to read as follows:

Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided. Whenever reference is made to electrical code standards, all requirements shall be in accordance with the *National Electrical Code* as adopted.

- (b) *Section 602.3.* Amend by deleting the section in its entirety and adding a new Section 602.3 to read as follows:

Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68 degrees F (20 degrees C) in all habitable rooms, bathrooms and toilet rooms.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

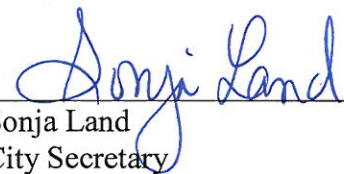
SECTION 5. That this ordinance shall take effect on April 15, 2012.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 5th day of March, 2012.



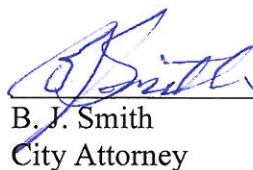
John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney